

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X 08 CV 01056 (WCC)

LOUIS A. TERMINELLO, MICHAEL MILLER,  
PARADISE HOMEOWNERS ASSOCIATION,  
HOA OF PIERMONT LANDING, REEDS &  
ABBOTTSFORD GATE CONDOMINIUM,  
DeVRIES POINT CONDOMINIUM, and  
PARADISE HARBOR AT PIERMONT LANDING  
CONDOMINIUM,

Plaintiffs,

**NOTICE OF MOTION  
TO DISMISS COMPLAINT  
PURSUANT TO FED. R. CIV.  
PROCEDURE 12(b)(6)**

-against-

THE VILLAGE OF PIERMONT, NEW YORK  
by its BOARD OF TRUSTEES AND TRUSTEES,  
and "JOHN AND JANE DOES 1-10,"

Defendants.

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**PLEASE TAKE NOTICE**, that upon the accompanying Declaration of Julie A. Rivera, Esq., sworn to on the 13<sup>th</sup> day of March, 2008, and the exhibits attached thereto, and the Memorandum of Law in Support of the Defendant's Motion to Dismiss, the defendant, THE VILLAGE OF PIERMONT, will move this Honorable Court on a date and time to be decided by this Honorable Court:

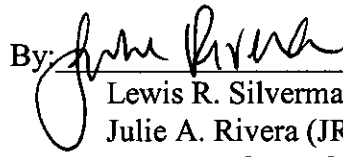
- 1) For an Order pursuant to 12(b)(6) of the Federal Rules of Civil Procedure dismissing plaintiffs' amended complaint against defendant, THE VILLAGE OF PIERMONT for a failure to state a cause of action; and
- 2) For such other and further relief as this Court deems just and proper.

**PLEASE TAKE FURTHER NOTICE**, that the plaintiffs' opposition, if any, is to be served by April 11, 2008. The defendant's reply papers are to be served by April 21, 2008. Oral argument will be held on a date and time to be determined by the Court.

Dated: New York, New York  
March 13, 2008

Respectfully submitted,

**RUTHERFORD & CHRISTIE LLP**

By:   
\_\_\_\_\_  
Lewis R. Silverman (LS 9723)  
Julie A. Rivera (JR 1817)  
Attorneys for Defendant  
The Village of Piermont  
369 Lexington Avenue, 8<sup>th</sup> Floor  
New York, New York 10017  
(212) 599-5799  
Our File No.: 1020.028


To: Feerick Lynch MacCartney PLLC  
Attn: Dennis Lynch, Esq.  
Attorneys for Plaintiffs  
96 South Broadway  
South Nyack, New York 10960  
(845) 353-2000

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that copies of DEFENDANT, THE VILLAGE OF PIERMONT'S NOTICE OF MOTION TO DISMISS COMPLAINT PURSUANT TO FED. R. CIV. PROCEDURE 12(b)(6), DECLARATION IN SUPPORT OF MOTION TO DISMISS and MEMORANDUM OF LAW IN SUPPORT OF MOTION TO DISMISS were served via regular mail to Feerick Lynch MacCartney PLLC, Attn: Dennis Lynch, Esq., Attorneys for Plaintiffs, 96 South Broadway, South Nyack, New York 10960 on the 13<sup>th</sup> day of March, 2008.

**RUTHERFORD & CHRISTIE, LLP**

By: \_\_\_\_\_

  
Julie A. Rivera, Esq. (JAR 1817)